

## CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to: Commissioner for Patents, Washington, D.C. at 703-308-4242 on June 25, 2001.

Signature: \_\_\_\_\_

Peggy Nichols  
Peggy Nichols

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hunein F. Maassab, et al.

Group Art Unit: 1648

Serial No. 08/573,569

Examiner: J. Parkin

Filing Date: December 14, 1995

For: COLD-ADAPTED INFLUENZA VIRUS

**RESPONSE TO NOTICE OF IMPROPER REQUEST FOR CONTINUED  
EXAMINATION (RCE) AND REQUEST FOR WITHDRAWAL OF NOTICE AND  
PROVISIONAL PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Commissioner for Patents  
Washington, D.C. 20231  
Attn: Carolyn Thomas

Dear Sir or Madam:

Applicants respectfully submit the attached preliminary amendment in response to the Notice of Improper Request for Continued Examination (RCE), copy attached, issued by the U.S. Patent and Trademark Office on June 1, 2001, for the above-identified application.

The June 1, 2001 Notice indicated that Applicants' Request for Continued Examination (RCE) under 37 CFR 1.114 filed on February 13, 2001 was improper because the Request was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, Applicants are providing the attached Preliminary Amendment to fulfill this requirement. Applicants also provide a provisional Petition for Revival of an Application for Patent Abandoned Unintentionally Under 27 CFR 1.137 (b), in the event the Office determines that such petition is necessary for continued prosecution.

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In view of the filing of the Preliminary Amendment, withdrawal of the Notice is respectfully requested. Examination on the merits is further respectfully requested.

In the event the Office determines that the above-identified application became abandoned for failure to file a timely and proper Response to the Notice of Improper Request for Continued Examination (RCE), Applicants hereby petition for revival of this application. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

No fee is deemed necessary in connection with the filing of the Response to the Notice of Improper Request for Continued Examination (RCE). However, if any fee is required in connection with the filing of this document that the Office determines that the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 27 CFR 1.137 (b) is required, Applicants authorize the Commissioner to charge the cost of such fee to **Deposit Account No. 50-0974**, referencing attorney docket no. 128019200201. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Date: June 25, 2001

By: 

Antoinette F. Konski  
Reg. No. 34,202  
Michele Todd Wasmuth  
Reg. No. 43,239  
Address of signator filed under 37 CFR  
§ 1.34 (a) (no associate Power of  
Attorney given)

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**MAY 17 2002**

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